FLINTER & GRINBERG v. CHEE SEE LIAN

[A. C. J. (Wilson J.) October 20, 1955]

[K. L. — Civil Suit No. 49 of 1955]

Civil Procedure Code (Cap. 7), s. 284 — Summons for examination of a judgment debtor as to his property — Whether Registrar has power to hear the summons — 1932 Supreme Court Rule No. 1, sub-r. 44(1).

1932 Supreme Court Rule No. 1, sub-r. 44(1) provides *inter alia* that the acts ordinarily to be performed by the Registrar, which term includes the Asst. Registrar, are "Execution of decrees. Chapter XXIV, ss. 240-334 inclusive of the Code." A Registrar has therefore authority to deal with matters relating to execution of a judgment debtor as to his property.

APPEAL in Civil Suit.

R. Ramani for the appellant.

Wilson J. : — This Summons-in-Chambers, which has been rejected by the Senior Assistant Registrar, was clearly an application under section 284 of the Civil Procedure Code for the examination of a judgment debtor as to his property. It was not an application under section 343 of the Code which provides an alternative to applying for an order of arrest of a judgment debtor for examination under section 342 of the Code in the circumstances set out in section 342. Under 1932 Supreme Court Rule No. 1, sub-rule 44(1) it is provided *inter alia* that the acts ordinarily to be performed by the Registrar, which term includes an Assistant Registrar, are "Execution of Decrees. Chapter XXIV, sections 240 to 334 inclusive of the Code."

I hold that the Senior Assistant Registrar has authority to deal himself with matters relating to execution of decrees coming within the scope of those sections and should normally do so. Matters relating to the examination and imprisonment of judgment debtors dealt with under the remaining sections of Chapter XXIV of the Code can only be dealt with by the Registrar if there is no Judge available for duty in the State. This being so, the appeal is allowed and the Summons-in-Chambers must be issued and dealt with by the Senior Assistant Registrar. He has of course no power to make any order on this summons other than an order provided for under section 284 of the Code.

Order accordingly.

Solicitors: *Braddell & Ramani.*

Re LIM YONG ENG

[Cr. R. J. (Spenser Wilkinson J.) November 7, 1955]

[Penang — Criminal Revision No. 46 of 1955]

Common Gaming Houses Ordinance, 1953 — Charge — Offences of assisting and carrying on of a public lottery — In charges for such offences it is sufficient to state that accused committed the offence on or about a certain date.

Unless the exact time at which an accused is actually found assisting and carrying on of a public lottery is material by reason of the particular circumstances in the case it would be sufficient in charges of this nature to state that the accused committed the offence on or about a certain date.

Case referred to:—

(1) *Kang Yeow Hooi v. Public Prosecutor* (1954) M.L.J. 233.

CRIMINAL REVISION.

Spenser Wilkinson J. : — The accused in this case was charged with three charges in respect of a public lottery carried out at 11.15 a.m. on the 18th May, 1955.

In accordance with a recent ruling on this subject I quash the convictions on the 2nd and 3rd charges, maintaining the conviction and sentence on the 1st charge.

I understand that the fine in respect of the 1st charge has already been paid and that the fines of $100 on each of the 2nd and 3rd charges have not yet been paid. If this be so, nothing further will be payable by the accused

I would like to take this opportunity of remarking for the benefit of the Police and others who draw up charges that the offence of assisting and carrying on of a public lottery is one which may well continue over a period of time. Unless, therefore, the exact time at which an accused person is actually found assisting is material by reason of the particular circumstances in the case I should have thought that it would be sufficient in charges of this nature to state that the accused committed the offence on or about a certain date. The habit that has grown up of inserting as the time of the offence the moment when the offence is discovered appears to me, since the decision of the Court of Appeal in the case of *Kang Yeow Hooi v. Public Prosecutor*[1], to be unnecessary and might, in some cases, be embarrassing to the prosecution. There may well be cases in which the lottery is over before the Police raid takes place but yet there may be sufficient evidence that the offence was committed at some time prior to the raid.

There are quite a number of offences in which the exact time of the alleged offence is very important, e.g. in the case of motoring offences unless the accused is told the time at which he is alleged to have committed the offence he may be quite unable to meet the charge. In most cases of assisting and carrying on of a public lottery, however, the date is quite sufficient, without specifying the exact time, to make it clear to the accused what charge he has to meet.

Order accordingly.